

REPORT

OF THE

JOINT COMMITTEE

APPOINTED TO EXAMINE THE ACCOUNTS

OF THE

Swamp Land Commissioners.

TO THE

GENERAL ASSEMBLY.



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BATON ROUGE:

J. M. TAYLOR, STATE PRINTER,

1859.

# REPORT.

*To the Honorable the Senate and*

*House of Representatives of the State of Louisiana :*

The Joint Committee appointed to examine the accounts of the Swamp Land Commissioners, and the manner in which they have discharged their duties, beg leave respectfully to report:

That they have had the matter submitted to them under consideration, and after the examination of witnesses and a careful and thorough investigation of the records, accounts and vouchers, they find the following facts:

Your Committee have examined the accounts and vouchers presented by G. W. Morse, former Commissioner of the First Swamp Land District, from the 1st of January, 1857, to the first of January, 1858, and have found the same correct, as follows, to wit:

To balance in the hands of Commissioner,	
as per account rendered.....	\$44,793 85
By amount disbursed.....	\$42,084 79
“ paid to State Treasurer ....	2,709 06
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	\$44,793 85

The following is a statement of the account of Augustine Duplantier, Commissioner of the First District, from the 1st of January, 1858, to the 1st of January, 1859:

To balance in hands of Commissioner, as per account....	\$11,351 19
By amount disbursed, including \$150 traveling expenses..	11,263 84
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Balance in hands of Commissioner....	\$87 35

The following is a statement of the account of Lafayette Caldwell, Commissioner of the Second Swamp Land District, from the 1st of January, 1858, to the 1st of January, 1859:

To balance in hands of Commissioner, as per account....	\$38,531 77
By amount disbursed, including \$150 traveling expenses..	38,467 11
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Balance in hands of Commissioner ..	\$64 66

In this account the sum of \$100 is charged as having been paid to John H. New, Esq., as a retaining fee for professional services in the prosecution of a suit against J. I. B. Kirk. This suit was instituted on the 13th day of January, 1859, for the return of money advanced to Mr. Kirk on his contract. Your Committee have not been able to perceive the necessity of this suit, inasmuch as the money had been paid into the Treasury on the 27th of November, 1858.

The following is a statement of the account of J. W. Butler, former Commissioner of the Third District :

To balance in hands of Commissioner.....	\$66,563 76
By amount paid, as per vouchers.....	\$3,721 50
By amount paid to State Treasurer.....	62,842 26
	<hr/> \$66,563 76

The Committee find that no money came into the hands of T. P. Hotchkiss, the present Commissioner of the Third District, and that he has paid the claims due by him as Commissioner, by warrants upon the Auditor of Public Accounts, and that his vouchers are correct.

The Committee appointed a sub-Committee to examine the accounts and vouchers of E. B. Towne, Commissioner of the Fourth District, and herewith submit their report :

"The undersigned, sub-Committee appointed to examine the accounts of Mr. E. B. Towne, Commissioner of the Fourth Swamp Land District, so far as they related to the balance on hand, as per last report, made to the Legislature in 1858, submit the following report :

"That the balance then reported in his hands, was \$20,712 38; and that the accounts of his disbursements, supported by vouchers, amount to \$21,677 55, showing a balance in his favor, of \$965 37.

"Mr. E. B. Towne, in said account, makes ~~showing~~ that he has in his hands, *levee scrip*, of the Board of Levee Commissioners of Carroll and Madison, to the amount of \$11,100, being for the same amount by him paid out, or advanced towards the construction of the Terrapin Neck Levee, which sum, when collected, will stand to the credit of the fund of the Fourth Swamp Land District.

(Signed,)

FERGUS GARDERE,  
PHIL. CHEW."

MARCH 8, 1859.

The 15th Section of the Act, approved March 16th, 1854, provides :

"That it shall be the duty of each Commissioner, in his own District, after the formation of the levee wards and draining Districts, to let out the washing or repairing of such levees, or drains, as the Board of Commissioners may order, to the lowest bidder, by sealed proposals, after thirty days' notice thereof, in some newspaper published in the parish in which the work is to be done. If no newspaper is published therein, then by

notices posted up at three public places in the parish, one of which shall be at the Court House," etc.

The Committee find that, where contracts have been forfeited, the re-letting of the contract has been without advertisements.

Your Committee believe that the object of the law was to secure the greatest publicity of any intended work, in the immediate neighborhood, so that those directly interested, could have an opportunity of taking the contract, as well as to secure competition, and thus enable the State to do the work at the least possible expense. The Committee believe that the proper construction of the law, requires that the re-letting of forfeited contracts, should be advertised in the same manner as the original contracts.

In one case that has come to the notice of the Committee, to-wit: the contract for the draining of the Lafourche Valley, the contract was advertised in the parish of Ascension, when no part of the work was done in that parish, but principally in the parishes of Assumption and Lafourche, in both of which parishes, newspapers were published.

The Act of 1854, requires the Swamp Land Commissioners, first, to appoint a competent Engineer for each District, who shall hold his office for two years, and receive an annual salary of twenty-five hundred dollars; second, to register all the warrants drawn by them.

Your Committee find that the Commissioners have been in the habit of letting out engineering by contract, and that warrants were frequently drawn without being registered by the Secretary, as required by law.

Your Committee were informed by some of the Commissioners, that competent Engineers could not be procured at the stated salary allowed by law.

The Committee know of no law authorizing the Commissioners to contract for engineering, and are satisfied that the work would be better, and more economically performed, by Engineers employed at an annual salary. If the salary allowed by law was insufficient, an application should have been made to the Legislature to increase the same allowed.

The Committee find that the Commissioner of the First District, paid out for engineering, from the 25th of August, 1857, to the 10th of March, 1859, five thousand six hundred and twelve dollars; and that during the year 1858, the sum of eighteen thousand eight hundred and seventy-nine 99-100 dollars, was paid for engineering, and the expenses in the Second District and that in the year 1858, the Commissioner of the Fourth District, paid for engineering, three thousand one hundred and ninety dollars.

In the year 1858, an Act was passed relative to Swamp Land Commissioners, of which the following is a copy:

No. 294.]

## AN ACT

Relative to Swamp Land Commissioners.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the*

*State of Louisiana, in General Assembly convened,* That the several Swamp Land Commissioners, before proceeding further with the duties of their respective offices or exercising any of the powers or rights conferred upon them by law, shall execute their bonds for the sum of twenty thousand dollars each, with two good and sufficient sureties, to be approved by the Governor of the State of Louisiana, for the faithful performance of the duties of their office.

SEC. 2. *Be it further enacted, &c.,* That the said Commissioners shall draw no moneys from the Treasury, except for the payment of work and labor actually performed or contracted for and in course of performance, and all drafts of money which said Commissioners are authorized to draw, shall be made payable to the contractor or contractors, and shall be accompanied by a certificate from the Commissioner that the money drawn is actually due to the person in whose favor the draft is drawn: *Provided,* That nothing in this act shall be so construed as to affect the right of said Commissioners to draw for their salaries or those of their engineers and assistants.

SEC. 3. *Be it further enacted, &c.,* That all moneys now in the hands of the Swamp Land Commissioners shall be immediately paid back to the Treasurer of the State, and thereafter shall only be drawn as is provided for by the second section of this act.

SEC. 4. *Be it further enacted, &c.,* That this act shall take effect from and after its passage.

WM. W. PUGH,

Speaker of the House of Representatives.

C. H. MOUTON,

Lieutenant-Governor and President of the Senate.

Approved March 18th, 1858.

ROBERT C. WICKLIFFE,

Governor of the State of Louisiana.

A true copy.

ANDREW S. HERRON,

Secretary of State.

Your Committee are satisfied ~~that~~ the provisions of this Act, and especially the 2d Section thereof are eminently wise and proper, and they will in future avoid much of the trouble that has heretofore existed in the investigation of the accounts of the Swamp Land Commissioners.

The Committee find that when this Act took effect, the Commissioner of the First District had in his hands one thousand seven hundred and forty-two dollars and sixty cents. And the Commissioner of the Second District had fifteen thousand six hundred and nine dollars and six cents.

The Commissioner of the Third District complied with the provisions of this Act, and resigned; and that on the 12th day of July, 1858, the Commissioner of the Fourth District presented to the State Treasurer a certificate, showing that he had no money in his hands.

Owing to the failure of the Commissioners of the Second and Third Districts to comply with the provisions of the Act of 1858, the Treasurer refused to recognize them in their official capacity, and to honor warrants

drawn by the Auditor predicated upon the warrants of those Commissioners.

Your Committee do not undertake to decide whether the interpretation given by the Treasurer to this Section was correct or not, but they are of the opinion that the refusal of the Commissioners to pay the money in their hands into the Treasury, was inexcusable. The reason given by those Commissioners was, that works were under contract that would absorb the funds in their hands, and that if the money was paid over by them into the Treasury, they could not draw the same in payment of these works, without an authorization by an Act of the Legislature.

Your Committee do not undertake to decide this point, but the requirement of the law was positive and unconditional, and if any injustice would result from the operation of the law, the consideration should have been urged to the Legislature to prevent the passage of the Act. But Commissioners, no more than any other officer, should be permitted to disregard and disobey the positive requirements of the law, under the opinion that its operations would work an injustice.

Your Committee find that warrants have been drawn by the Commissioner of the Fourth Swamp Land District to Messrs. Miltenberger and Bowman, and Brown and Johnson, "for work and labor actually performed." These gentlemen are Merchants and Bankers. The Commissioner frankly informed the Committee that these warrants were drawn by him to refund these gentlemen advances of money, by him obtained from them, to enable him to protect the alluvial lands in his District from overflow, and to stop crevasses during the high water of 1858.

Your Committee fully appreciate the motives that induced this action on the part of the Commissioner, and if any excuse can justify the Commissioner in departing from the letter of the law, they believe that he ought to be exonerated from all censure in the matter.

In regard to the delay in the execution of the works in the parish of Pointe Coupee, to which their especial attention was called, your Committee find that, owing to the dikes across the mouths of the bayous, making into the Atchafalaya, the land through which the contemplated works were to be done, was almost constantly overflowed, and it has been conclusively shown that unless the canal between the Bayous Moreau and Middle is enlarged to three times its present capacity, and as long as there is no outlet through these bayous into the Atchafalaya, it will be almost impossible to cut the canal contracted for.

The Committee believe that past experience has conclusively shown that the present system is radically defective, and that a large amount of money has been expended, and the land donated by Congress to aid the State in reclaiming the swamp and overflowed lands, is being rapidly exhausted without any commensurate benefit to the State.

Under all these circumstances, and in view of all the facts of the case, your Committee recommend the repeal of the laws organizing the Board of

Swamp Land Commissioners, and the organization of a Board of Public Words, under suitable restrictions and requirements.

All of which is respectfully submitted,

(Signed.)

F. S. GOODE,

Chairman Senate Committee.

(Signed)

DANIEL NEWTON,

Chairman House Committee.

E. J. DELONY, Secretary.